

ESTTA Tracking number: **ESTTA576444**

Filing date: **12/13/2013**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Speedo International Limited
Granted to Date of previous extension	12/15/2013
Address	8 Manchester Square London, W1U3PH UNITED KINGDOM
Attorney information	Brian R. McGinley Dentons US LLP P. O. Box 061080 Chicago, IL 60606-1080 UNITED STATES brian.mcginley@dentons.com, stephen.huggins@dentons.com, anita.hansen@dentons.com, ttab@dentons.com

Applicant Information

Application No	85827216	Publication date	06/18/2013
Opposition Filing Date	12/13/2013	Opposition Period Ends	12/15/2013
Applicant	Plythal LLC 2592 N. Gregg Avenue, Suite 36 Fayetteville, AR 72703 ARGENTINA		

Goods/Services Affected by Opposition


Class 025. First Use: 0 First Use In Commerce: 0
All goods and services in the class are opposed, namely: clothing, namely, shirts, jackets, pants, hats and caps


Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)


Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	1161031	Application Date	09/29/1976
Registration Date	07/14/1981	Foreign Priority Date	NONE
Word Mark	NONE		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 1954/11/00 First Use In Commerce: 1958/01/00 Swimsuits, Bathing Caps, Shirts, [Blouses,] Singlets, Vests, Pants, [Pantsuits, Trousers, Trouser Suits, Slacks,] Shorts, Skirts, Dresses, Track Suits, Coats, [Blazers,] Jackets, [Jumpers,] Cardigans, Pullovers, Underwear, [Pajamas, and Night Dresses]

U.S. Registration No.	1464367	Application Date	12/16/1986
Registration Date	11/10/1987	Foreign Priority Date	NONE
Word Mark	NONE		
Design Mark			
Description of Mark	THE MARK CONSISTS OF AN ASYMMETRIC ARROWHEAD DESIGN.		
Goods/Services	<p>Class 009. First use: First Use: 0 First Use In Commerce: 0 DIVERS SUITS AND GLOVES; BATHING LIFE PRESERVER FLOATS; LIFE BUOYS; LIFE BELTS;AQUALUNGS; PROTECTIVE GOGGLES AND STRAPS THEREFOR</p> <p>Class 010. First use: First Use: 0 First Use In Commerce: 0 BODY SUPPORTING FLOTATION COLLARS FOR USE IN REMEDIAL THERAPY; SWIMMERS AND DIVERS EAR PLUGS</p> <p>Class 025. First use: First Use: 0 First Use In Commerce: 0 BUOYANT SWIMSUITS; WET SUITS</p> <p>Class 028. First use: First Use: 0 First Use In Commerce: 0 BODY SUPPORTING FLOTATION COLLARS FOR USE IN SWIMMING INSTRUCTION; FLOTATION JACKETS FOR USE IN SWIMMING; SNORKELS FOR USE IN SWIMMING; SWIMMING NOSE CLIPS</p>		

U.S. Registration No.	1183860	Application Date	03/19/1979
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Registration Date	12/29/1981	Foreign Priority Date	NONE
Word Mark	SPEEDO		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1977/06/00 First Use In Commerce: 1977/07/00 Footwear		

U.S. Registration No.	1647484	Application Date	02/08/1989
Registration Date	06/11/1991	Foreign Priority Date	09/16/1988
Word Mark	SPEEDO		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 0 First Use In Commerce: 0 ANORAKS, [APRONS, BABUSHKAS,] [BANDANAS,] [BABY BUNTINGS,] BATHING SUITS,BATHING TRUNKS, [BATHROBES,] BEACHWEAR, [BELTS, BIBS, BLAZERS, BLOUSES, BLOUSONS, BOLEROS, BOOTS, BOOTIES,] BRAS, BRIEFS, [CAFTANS, CAMISOLES,] [CAPES,] CAPS, [CARDIGANS,] [CHEMISES, CLOGS, CLOTH DIAPERS,] COATS, [COLLARS, COVERALLS, CREEPERS, CULOTTES, EAR MUFFS, DRESSES, FISHING VESTS, FISHING WADERS,]FOOTWEAR, [GAITERS, GALOSHES, GIRDLES,GLOVES, GOWNS, HALTERS,] HATS, HEADBANDS, HEADWEAR, [HOODS,] JACKETS, [JEANS, JERSEYS, JUMPERS, JUMPSUITS, KIMONOS,LEG WARMERS,] [LEOTARDS,] LEGGINGS, LINGERIE, LOUNGEWEAR, [MITTENS, MUFFLERS,] [NECKERCHIEFS,] [NECKWEAR, NEGLIGEEES, NIGHTGOWNS, NIGHTSHIRTS, OVERALLS,OVERCOATS, PAJAMAS, PANTIES, PANTS, PANTS SETS,] [PARKAS,] [PEDAL PUSHERS, PEIGNOIRS, POCKET SQUARES,] PONCHOS, PULLOVERS, [RAIN COATS,] RAINWEAR, [ROBES,] [ROMPERS, RUBBERS,] [SANDALS, SCARVES, SHAWLS, SHIFTS, SHIRTS, SHOES, SHORTS, SINGLETS, SKI SUITS, SKIWEAR, SKIRTS, SLACKS, SLEEPWEAR,] SLIPPERS, [SLIPS, SMOCKS,] [SNOWSUITS,] SOCKS, [SPORT COATS, STOCKINGS, STOLEs, SUITS, SUSPENDERS,] [SWEATERS,] SWEATPANTS, SWEATSHIRTS, SWEATSUITS, SWIMWEAR, T-SHIRTS, [TEDDIES,] TENNIS WEAR, [TIES, TIGHTS, TOPCOATS, TOPS, TROUSERS, TUNICS, TUXEDOS,] UNDERPANTS, [UNDERSHIRTS,		

	UNDERWEAR, UNIFORMS, VEILS, VESTS, VESTED SUITS,] WARMUP SUITS, WIND-RESISTANT JACKETS, [WRISTBANDS,] [AFTER-SKI BOOTS,ASCOTS,] [ATHLETIC SHOES,] [BABY PANTS, BATHROBES,] BATH SANDALS, BATH SLIPPERS, BATHING CAPS, BEACHWEAR, [BODICES, CORSETS, CUFFS, DETACHABLE COLLARS,][FOOTWEAR UPPERS,] [FROCKS, FUR STOLEs, GABERDINES, GARTERS, GOWNS, GYMNASTIC SHOES,] HOSIERY, [SOCK SUSPENDERS,]SWEAT-ABSORBENT UNDERCLOTHING, [TOGAS,][WET SUITS FOR WATER-SKIING]
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Attachments	73101543#TMSN.gif(bytes) 73635677#TMSN.gif(bytes) 73208022#TMSN.jpeg(bytes) 73781214#TMSN.jpeg(bytes) Notice of Opposition to P and design.pdf(166119 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/brian r mcginley/
Name	Brian R. McGinley
Date	12/13/2013

**UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of)	
Serial No. 85/827,216)	
P (Design))	
)	
SPEEDO INTERNATIONAL LIMITED)	
)	
Opposer,)	
)	
v.)	Opposition No. _____
)	
PLYTHAL LLC)	
)	
Applicant.)	

NOTICE OF OPPOSITION

Opposer Speedo International Limited (“Speedo”), a corporation organized under the laws of the United Kingdom, believes that it will be damaged by the registration of U.S. Serial No. 85/827,216 and hereby opposes registration of the same under § 13 of the Lanham Act of 1946, 15 U.S.C. § 1063.

Applicant Plythal LLC (“Applicant”) filed an application under Section 1(b) of the Lanham Act on January 18, 2013, U.S. Serial No. 85/827,216, for a trademark consisting of a design mark consisting of a right-facing chevron or arrow having an asymmetric body and a predominant lower tail (“Applicant’s Trademark”) for the following goods in Class 25: “clothing, namely, shirts, jackets, pants, hats and caps” (the “Application”).

The United States Patent & Trademark Office (“USPTO”) published the Application for opposition in the *Official Gazette* on June 18, 2013, allowing time to oppose the Application up to and including July 18, 2013. Speedo requested an extension of the opposition deadline, which request was granted, thereby extending the opposition deadline as to Speedo to October 16, 2013. Speedo requested a further extension of the opposition deadline with the consent of





Applicant, which request was granted, thereby further extending the opposition deadline as to Speedo to December 15, 2013. Accordingly, Speedo has timely filed this Notice of Opposition.

Speedo's Well-Known and Famous Arrow Trademark

1. Speedo is a well-known manufacturer of a wide variety of clothing, footwear and apparel in class 025, such as swim trunks, underclothing, boots, pants, shirts and sweaters, ski wear, rainwear, teddies, tennis wear, tuxedos, bath slippers, wet suits, baby clothing, aprons and babushkas, just to name a small sample, all of which Speedo distributes in the United States and around the world under its famous right-facing, darkened arrow (or chevron) shaped trademark, having an asymmetric body and predominant lower tail (Speedo's "Arrow Trademark" or "Speedo's Trademark"). Specifically, Speedo has registered and uses its famous Arrow Trademark, alone and in combination with the "Speedo" name, in connection with numerous goods in International Classes 09, 10, 25, and 28 relating to clothing and sports accessories including, without limitation, the goods listed in the chart immediately below taken from Speedo's numerous incontestable US trademark registrations, dating back at least nearly 40 years ("Speedo Goods").

2. For at least approximately 50 years Speedo has promoted and sold many of the Speedo Goods in the United States under its well-known and famous Arrow Trademark. Speedo has built a large and profitable business in the United States under the Arrow Trademark.

3. Speedo owns several U.S. registrations for its well-known and famous Arrow Trademark used in connection with clothing, footwear, and athletic and sports equipment and accessories. A representative sample of Speedo's registrations for its Arrow Trademark is identified as follows:

Mark	App. No.	Date Filed	Reg. No.	Reg. Date	Classes
	73/101543	29/09/1976	1161031	14/07/1981	25
	73/635677	16/12/1986	1464367	10/11/1987	09,10,25,28
	73/208022	19/03/1979	1183860	29/12/1981	25
	73/781214	08/02/1989	1647484	11/06/1991	25

4. Beginning at least as early 1958, Speedo has used its Arrow Trademark in United States interstate commerce on and in connection with clothing of various types. By virtue of Speedo's extensive and continuous usage, coupled with substantial sales in interstate commerce and significant promotional and advertising activities, Speedo has achieved widespread recognition with the relevant trade and public of its Arrow Trademark for the Speedo Goods, creating a substantial and valuable goodwill among the relevant trade and public with respect to the Arrow Trademark.

5. Speedo began using the Arrow Trademark in United States interstate commerce at least as early as 1958, and first obtained registration in the United States at least as early as 1976. Such use and registration clearly predates the filing date of the intent-to-use Application, January 18, 2013. Accordingly, priority is not an issue in this proceeding.

COUNT I: LIKELIHOOD OF CONFUSION

6. Speedo here re-alleges paragraphs 1 through 5 above as though fully set forth herein.

7. Applicant's use of Applicant's Trademark for the goods described in the Application so resembles Speedo's Arrow Trademark as to be likely to create confusion, mistake, or deception under § 2 of the Lanham Act, 15 U.S.C. § 1052(d).

8. Speedo's Trademark comprises a right-facing, darkened arrow shape with an asymmetric body and predominant lower tail.

9. Applicant's Trademark is substantially similar to, and likely to cause confusion with Speedo's Arrow Trademark. Nearly every distinctive element is confusingly similar, including the elements listed above in paragraph 7. Consumers and trade members encountering Applicant's Trademark in connection with Applicant's Goods will falsely believe that such goods are offered or otherwise sponsored or endorsed by Speedo.

10. Given that Applicant's Trademark is nearly identical to Speedo's distinctive Arrow Trademark, and that Speedo's Trademark is very valuable and has become a mark of great popularity amongst consumers, it is clear Applicant intended, in filing the Application, to trade on the goodwill of Speedo's Trademark.

11. Applicant's goods, "clothing, namely, shirts, jackets, pants, hats and caps," are identical to Speedo's Goods and are within International Class 25.

12. As the Application has no limitation on trade channels, Applicant's goods are presumed to move through all of the ordinary and usual channels of trade for the goods described in the Application, including the same trade channels through which Speedo's goods move, further exacerbating the likelihood of confusion between Applicant's Trademark and Speedo's Arrow Trademark.

13. Speedo has established considerable goodwill in connection with its Arrow Trademark. Having established such goodwill, Speedo is entitled to protection against use of confusingly similar marks.

14. If Applicant's Trademark is allowed to register, purchasers are likely to believe that Applicant's Trademark and the goods offered thereunder originated with or are connected or associated with, or sponsored, licensed, endorsed or approved by Speedo, all to Speedo's detriment. Undoubtedly, registration of Applicant's Trademark will allow Applicant to wrongfully appropriate Speedo's valuable goodwill and reputation associated with its Arrow Trademark. Speedo and its goodwill is likely to be injured and likely to be harmed, and will be injured and will be harmed, if the Application is allowed to proceed to registration.

COUNT II: LIKELIHOOD OF DILUTION

15. Speedo repeats and realleges the allegations contained in Paragraphs 1 through 14 as though set forth fully herein.

16. Speedo's Arrow Trademark is famous under the Lanham Act, 15 U.S.C. §1052(f), and 15 U.S.C. § 1125(c).

17. The Application to register Applicant's Mark was filed after Speedo's Arrow Trademark became famous.

18. Registration of Applicant's Trademark would likely dilute the distinctive quality of the Arrow Trademark because the registration of Applicant's Trademark would lessen the capacity of Speedo's Arrow Trademark to identify and distinguish goods and services offered exclusively by Speedo. Registration of Applicant's Trademark would further likely tarnish the goodwill enjoyed by Speedo in its Arrow Trademark. The Arrow Trademark has accumulated a

reputation for standing for excellence. The sale of Applicant's clothing under Applicant's Trademark would result in association of Speedo's Trademark with inferior goods.

19. Registration of Applicant's Trademark is likely to dilute Speedo's Arrow Trademark in violation of Section 2(f) of the Lanham Act, 15 U.S.C. §1052(f), and 15 U.S.C. § 1125(c). Such likelihood of dilution would arise by blurring and/or tarnishment.

20. As a consequence of all of the foregoing, Speedo and its goodwill is likely to be injured and likely to be harmed, and will be injured and will be harmed, by registration of Applicant's Trademark.

WHEREFORE, Speedo believes that as a result of the likelihood of confusion with and likelihood of dilution caused by Applicant's Trademark, Speedo will be damaged by the registration of Applicant's Trademark and prays that the Board sustain this Notice of Opposition and refuse to register Serial No. 85/827,216 in connection with all of the goods which Applicant seeks to register in class 25.

Speedo International Limited hereby appoints Brian R. McGinley, Stephen J. Huggins, Adam C. Rehm, Carol Anne Been and Dentons US LLP, P.O. Box #061080, Wacker Drive Station, Willis Tower, Chicago, IL 60606-1080, as its representative upon whom notices and process in proceedings affecting this proceeding may be served.

Respectfully submitted,

DENTONS US LLP

Dated: December 13, 2013

By: /s/ Brian McGinley
Brian R. McGinley
Stephen Huggins
Attorneys for Speedo International Limited Corp.
P.O. Box #061080

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Wacker Drive Station, Willis Tower
Chicago, IL 60606-1080
Tel. No. 816-460-2571
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CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the foregoing NOTICE OF
OPPOSITION to be served upon:

BOYD D. COX
BOYD D. COX, ATTORNEY AT LAW
PO BOX 573
FAYETTEVILLE, ARKANSAS 72702-0573

by placing same in an envelope, properly sealed and addressed, with postage prepaid and
depositing same with the United States Postal Service on this 13th day of December, 2013.

/s/ Brian McGinley
Brian McGinley

Filed with the TTAB via
ESSTA on December 13, 2013